

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
DIVISION AT**

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Robert L. Smith Jr. (Pro Se)
Jenner Music Group
P. O. Box 581
Dayton, OH 45405

Plaintiff,

Case No. 1:15-cv-655

COMPLAINT

Beckwith
Litkovitz

Bernard Thomas
1323 E. Ohio Street
Plant City, Florida 33561

Defendant,

Robert L. Smith Jr. (Pro Se)
Jenner Music Group
P. O. Box 581
Dayton, OH 45405
937-367-8650
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
DIVISION AT

ROBERT L. SMITH JR., PROFESSIONALLY KNOWN AS "BIGG ROBB" D/B/A JENNER MUSIC GROUP/ "OVER 25 SOUNDS/ BIGG ROBB MUSIC"

Plaintiff,

VS.

BERNARD THOMAS, professionally known as Bishop Bullwinkle or Bishop Bullwinka d/b/a, Beswes or Best West Music publishing et al.

Defendant

| Case No.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff Robert L. Smith professionally known as "Bigg Robb" d/b/a Maxx Three Robby's Destiny publishing/Jenner Music Group/ Over 25 Sounds/Bigg Robb Music has written, produced, recorded, published and distributed "Looking for a Country Girl" and is the original and sole author of the music and lyrics. The title was released on Bigg Robb compact digital (CD), recording entitled "Think Bigg" "Looking for a Country Girl"

PRELIMINARY STATEMENT

1. Plaintiff bring this action seeking to put an immediate stop to, and to obtain redress for, Defendants' blatant and purposeful infringement of the copyright in the Plaintiffs' musical composition entitled "Looking for a Country Girl"
2. Plaintiff is a hugely successful musical artist, songwriter, and producer. The genre of Music performed by the Plaintiff most commonly is Blues Music, style; "Southern

Soul". The Plaintiffs compositions are sold in the market stylized as "Southern Soul Blues" and Plaintiff performances are met with acclaim in the blues market. Plaintiff is enormously popular on radio, TV, and in movies. Plaintiff is a musical artist and has an entire catalog of recordings that he has performed written and produced. Plaintiff has gain popularity in the Southern Soul Blues Market. And has sold thousands of recordings. The Plaintiffs' sales nearing Gold, based on Record Industry Association of America (RIAA) standards.

3. Recognizing Plaintiffs' popularity, talent and goodwill, and in a brazen and improper effort to capitalize on Plaintiffs' hard-earned success, Defendant have created and publicized (or caused to be created and publicized) a composition of the Plaintiffs 'work "Looking for a Country Girl". Defendant sampled a portion of the song in the composition entitled "Hell 2 the Naw Naw. Defendant's composition features significant portions of Plaintiff's musical composition of "Looking for a Country Girl" without authorization from Plaintiff. The Defendants infringing commercial advertisement can be viewed at <https://youtu.be/9AOmaX-VuoY> on YouTube video.
4. Defendants conduct is causing, unless immediately enjoined will continue to cause, enormous and irreparable harm to the Plaintiff. Defendants may not continue to exploit Plaintiffs' musical composition without authorization in order to promote **his own interest**. Defendants conduct must immediately be stopped and Plaintiff must be compensated for Defendants willful acts of infringement.

JURISDICTION AND VENUE

5. This civil action seeks damages and injunctive relief for copyright infringement under the Copyright Act of the Unite States, 17 U.S.C§ 101, et seq.

1 6. This court has subject matter jurisdiction over this copyright infringement action
2 pursuant to 28 U. S. C. §§ 1331 and 1338 (a).
3
4

5 7. This court has jurisdiction over Defendant because, among other things. Defendant
6 is doing business in the State of Florida in the Middle District, the acts of infringement
7 complained of herein occurred in the State of Florida and in the judicial district, and
8 Defendant have caused injury to Plaintiff and the intellectual property within the State
9 of Florida and in this judicial district.
10

11
12 8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c) and/or §
13 1400(a).

14 THE PARTIES

15 9. Plaintiff Robert L. Smith professionally known as “Bigg Robb”, is a musical artist and
16 a songwriter, and author of the musical composition entitled “Looking for a Country
17 Girl” and a legal and beneficial owner of a copyright interest in and to and to that
18 musical composition.

20 10. Plaintiff Robert L. Smith professionally known as “Bigg Robb” d/b/a Maxx Three
21 Robby’s Destiny publishing/Jenner Music Group/ Over 25 Sounds/Bigg Robb Music is
22 a copyright owner and claimant in and to the musical composition “Looking for a
23 Country Girl”.

25 11. Defendant Bernard Thomas P/K/A Bishop Bullwinka or Bishop Bullwinkle and d/b/a/
26 Beswes or Best West Music publishing organized and existing under the laws of the
27 State of Florida, with his principal business in Plant City, Florida. Defendant Bernard
28 Thomas dose business throughout the United States including this judicial district. He
29 is engaged in the business of being a musical artist, songwriter, advertising, marketing
30 and selling music.
31
32

12. The true names and capacities, whether individuals, corporate associates, or otherwise of defendants by such fictitious names (the Doe Defendants). Plaintiffs will seek leave of court to amend this complaint to state true name and capacities when they have been ascertained. Plaintiff believe and on the basis aver that the Doe Defendants are liable to Plaintiff as a result of their participation in all or some of the acts herein set forth. Bernard Thomas, Bishop Bullwinka and the Doe Defendants are collectively referred to as the Defendants

13. Plaintiff is informed and believe and on that basis aver that all times mentioned in this complaint, each of the Defendants was the agent and/or alter ego of each of the other Defendants and in doing the things alleged in this complaint, was acting within the course and scope of such agency.

GENERAL AVERMENTS

14. Plaintiff is the author of the music and lyrics to the original musical composition "Looking for a Country Girl". Plaintiff own the rights and title to the copy right in the composition "Looking for a Country Girl" (The Infringed Composition) as an author and through the publishing entities a Maxx Three Robby's Destiny publishing/Jenner Music Group/ Over 25 Sounds/Bigg Robb Music.

15. Plaintiff filed an application for copyright registration with the United States Copyright Office for the Musical Composition "Looking for a Country Girl" on February 27, 2012. A true and correct copy of Plaintiff's copyright registration is annexed hereto as Exhibit A.

16. "Looking for a Country Girl" was recorded by Plaintiff and was released on a CD "Think Bigg" which released to the public on _____ self-published and distributed.

17. In or around March 15, 2014, it came to the Plaintiffs attention that the Defendants and/or their agents reproduced, distributed, and /or publicly performed

(and/or caused to be reproduced, distributed, and/or publicly performed) a substantial portion of the Infringed Composition without Plaintiffs authorization in a public performance at SOUTHERN SOUL BLUES FEST advertisement for fest can be viewed at <http://youtu.be/pihSU-x97q0> the composition entitled "Hell 2 Da Naw Naw" or " Hell 2 the Naw Naw" (The Infringed upon work can be viewed at; www.youtube.com/watch?v=odPVWgw5IC0)

18. The Defendants do not have any license, authorization, permission or consent to use
the infringed Composition.

19. In fact on May , 2015 through Maxx Three Robby's Destiny publishing/Jenner Music
Group/ Over 25 Sounds/Bigg Robb Music publishing administrator located in Dayton
Ohio, Plaintiff was provided

Written notice to Defendant Bernard Thomas P/K/A Bishop Bullwinka or Bishop
Bullwinkle and d/b/a Beswes or Best West Music publishing that the recording of
"Hell 2 Da Naw Naw" or" Hell 2 the Naw Naw" constituted infringement on Plaintiffs
rights and demanded that the Defendants immediately cease and desist from any further
use of the Infringed Composition. Plaintiffs are entitled to injunctive relief and redress
for Defendants' willful, intentional and purposeful use and exploitation of Infringed
Composition for their own financial benefit with full knowledge that such use
constituted infringement of, and was in disregard of Plaintiffs' right.

COUNT I
COPYRIGHT INFRINGEMENT
(17 U.S.C. §§ 106 and 501)

20. Plaintiffs incorporate herein by reference each and every averment contained in paragraphs 1 through 19, inclusive
21. Through their conduct averred herein, Defendants have infringed Plaintiffs copyright in the Infringed Composition in violation of Section 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.
22. Defendants' act of infringement are willful, intentional and purposeful, in disregard of and with indifference to Plaintiffs' rights.
23. As a direct and proximate result of said infringement by Defendants, Plaintiff are entitled to damages in an amount to be proven at trial.
24. Plaintiffs are also entitled to Defendants' profits attributable to the infringement, pursuant to 17 U.S.C. § 504 (b), including an accounting of a constructive trust with respect to such profits.
25. Plaintiffs further are entitled to their attorney's fees and full cost pursuant to 17 U.S.C. § 505 and otherwise according to law.
26. As a direct and proximate result of the foregoing acts and conduct, Plaintiff are informed and believe and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs' rights in the Infringed Composition. Plaintiffs are entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

WHEREFORE, Plaintiff pray for judgement against Defendants, and each of them, jointly and severally, as follows:

1. For damages in such amount may be found, or otherwise permitted by law.
2. For an accounting of, and the imposition of constructive trust with respect to, Defendants' profits attributable to their infringements of Plaintiffs' copyright in the Infringed Composition.
3. For a preliminary and permanent injunction prohibiting Defendants', and their respective agents, servants, employees, officers, successors, licensees, and assigns, and all persons acting in concert or participation with each or any of them, from continuing to infringe Plaintiffs copyright in the Infringed Composition.
4. For prejudgment interest according to law.
5. For Plaintiffs attorney fees, costs, disbursements, in this action.
6. For such other and further relief as the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Dated this 6 of October, 2015.

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